

**MINUTES
of the
FIFTH MEETING
of the
LAND GRANT COMMITTEE**

**October 24-25, 2013
Tecolote Land Grant**

The fifth meeting of the Land Grant Committee (LGC) was called to order at 9:15 a.m. by Representative Miguel P. Garcia, chair, on October 24, 2013 at the Tecolote Land Grant Community Center.

Present

Rep. Miguel P. Garcia, Chair
Sen. Jacob R. Candelaria, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. David M. Gallegos
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Rep. Tomás E. Salazar

Absent

Rep. Jimmie C. Hall
Sen. Daniel A. Ivey-Soto

Advisory Members

Rep. Phillip M. Archuleta
Sen. Carlos R. Cisneros
Sen. Timothy M. Keller
Rep. Patricia A. Lundstrom
Rep. W. Ken Martinez
Rep. Christine Trujillo

Staff

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)
Peter Kovnat, Staff Attorney, LCS
Alexandria Tapia, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Thursday, October 24

Welcome and Introductions

Representative Garcia welcomed everyone to the Tecolote Land Grant and provided a brief background of the work of the LGC. Members of the committee, staff and those present in the audience were asked to introduce themselves.

Representative Garcia provided updates on the latest information from the Tome Land Grant and the Juan Bautista Baldes Land Grant, noting the latter's recent meeting with the Department of Game and Fish. The Juan Bautista Baldes Land Grant is one of only three land grants that receive annual elk hunting permits. After a complaint by an individual, the land grant lost its nine elk permits. The meeting with the Department of Game and Fish resulted in a reversal of the decision to revoke the elk permits. Representative Garcia added that hunting permits are a potential source of revenue for land grants, and he is hopeful that the Department of Game and Fish will look more closely into these issues in the future.

Welcoming Remarks and History: Tecolote Land Grant

Angela Herrera, member, Tecolote Land Grant, welcomed the LGC to the area and gave some of the history of the land grant. The Tecolote Land Grant was established in 1825 and was first surveyed in 1859 at 48,300 acres. The Tecolote Land Grant now sits at approximately 4,500 acres and contains no Bureau of Land Management (BLM) land. Tecolote is unique in that it was established as a Mexican land grant and many of its heirs have Mexican surnames. Prior to the founding of nearby Las Vegas, Tecolote was the site of stagecoach stops, the railroad and the U.S. Post Office when the United States first came into New Mexico. Despite a history of questionable land transfers and a few court battles, Ms. Herrera described the land grant as resilient and the community itself as being very much intact. The land grant has held on to its traditions and still celebrates its local fiestas and worships in its many chapels.

Ms. Herrera informed the committee of the Anasazi pueblo east of the land grant, known as La Placita de Abajo. Through events unclear to the land grant, Texas Tech University gained ownership of 10 acres in the location and excavated the Indian ruins in the early 1900s. Members of the LGC asked several questions regarding this issue, offering ideas on how to regain possession of artifacts taken during the excavation. The land itself has since been reverted to the land grant. The committee discussed sending a letter to Texas Tech University requesting it to return the artifacts to the custodianship of New Mexico Highlands University. A member of

the land grant, Jerry Garzas, added that there was an exhibit at the Rough Riders Museum this past summer and that the museum may have more information on where the artifacts are now.

A member of the committee asked what the land grant is currently doing for economic development. Ms. Herrera answered that members are still harvesting sand and gravel from the area and that the grant receives royalties from those sales. In addition to leasing a cellular tower, the land grant is also discussing the possibilities of solar contracts. Historic Route 66 and the Santa Fe Trail pass through the Tecolote Land Grant. Members of the committee discussed what the land grant could do to promote those famous routes.

The LGC discussed new requirements from the executive branch regarding capital outlay in reference to Ms. Herrera's comments on water issues and the need to rebuild the water tank in Tecolote. A member of the committee stressed the need for the land grant to identify the dollar amount required to repair the water system. Now that the Tecolote Land Grant has achieved political subdivision status, it will be easier for it to request capital outlay funds. The LGC urged the land grant to work with the Land Grant Council for help on necessary audits.

Update from the Land Grant Consejo

Leonard T. Martinez, president, Land Grant Consejo, provided background on the Land Grant Consejo and its work. Mr. Martinez reported that the consejo recently met with White House staff to discuss traditional use rights. The consejo will be working with the New Mexico congressional delegation on a traditional rights bill. Mr. Martinez added that the consejo supports modification on the definition of the term "heirs" in the context of land grants.

A member of the committee offered brief clarification on the difference between the Land Grant Council and the Land Grant Consejo. The consejo is a grass-roots organization that serves as a voice in dealing with federal agencies such as the United States Forest Service (USFS) and the congressional delegations. Land grants that are members of the consejo pay membership dues and are not required to have political subdivision status. Currently, there are 23 land grants that participate in the consejo, making it a statewide coalition. The Land Grant Council was created by state statute under the Land Grant Support Act. It is housed under the Department of Finance and Administration (DFA) and is mandated to help those land grants that have achieved political subdivision status. Members of the council are appointed by the governor and are required to have served on the board of trustees of a land grant.

A member of the committee asked about the consejo's funding sources. Mr. Martinez explained that the consejo has a nonprofit arm that can accept donations for legal cases. The consejo is also able to approach other entities to request money or technical assistance for land

grants. The LGC discussed the possibility of earmarking funds specifically for use by land grants, in particular, funds to New Mexico Legal Aid.

Update from the Land Grant Council

Juan Sanchez, president, Land Grant Council, and Arturo Archuleta, Land Grant Council, addressed the committee with an update on the council's activity since its last update of the 2012 interim. The Land Grant Council has continued to provide support to community land grants throughout the state. This includes working as a liaison for community land grants between state and federal agencies; engaging in policy work at the federal and state levels; providing direct financial and technical assistance to land grants; and conducting several trainings and workshops for community land grants. The following key points were highlighted by the presenters (please see handout for full status report).

1. Master Stewardship Agreement — A master stewardship agreement with the USFS would have allowed the council to facilitate forest restoration and watershed health projects with local land grants on former common lands within the Cibola, Carson and Santa Fe national forests. The DFA determined that it did not believe it had the technical expertise to administer the fiscal requirements under the agreement and would therefore not sign off on the agreement as the fiscal agent of the council.
2. Community Land Grant Registry — The council worked with the secretary of state, the Attorney General's Office, the State Records Center and Archives and the University of New Mexico (UNM) to transfer and establish the Community Land Grant Registry under the Land Grant Council. The DFA refused to become the custodian of any of the existing or future documents relating to the Community Land Grant Registry, and, therefore, the council was required to seek alternate placement for the records. A memorandum of understanding between the Land Grant Council and the UNM Land Grant Studies Program has been reached, allowing the UNM Land Grant Studies Program to be the custodian of all new Community Land Grant Registry records.
3. Property Taxes — The council, through its contract staff, has been researching the amount of property taxes paid by land grants for common lands throughout the state in order to help inform policy decisions related to property taxes and common lands. For the 2012 tax year, data from 21 land grants have been collected; those land grants paid approximately \$32,150 in property taxes for approximately 161,500 acres of common land.
4. Issues with the DFA — The precise requirements and authority of both the council and

DFA as administratively attached entities are not clear and may need a legislative fix to better define the roles and responsibilities of both the council and the DFA. The council representatives recalled several instances in which being administratively attached to the DFA hindered its operational ability.

Members of the LGC discussed some of the issues brought up by Mr. Sanchez and Mr. Archuleta. The members focused on the council's small budget (\$30,000) and lack of proper staffing. Mr. Sanchez explained that the council has five members appointed by the governor who receive mileage and per diem for their work. The council also has one staff member, Mr. Archuleta, who works on contract, but three staff members would be sufficient to better provide services for the Land Grant Council.

Members of the committee expressed interest in finding another entity to which to administratively attach the Land Grant Council, other than the DFA. Several members were disappointed to see that the master stewardship agreement had fallen through, thus passing up a great opportunity for generating revenue within land grant communities.

Motion 1

Senator Ortiz y Pino motioned for a letter from the committee to be sent to the congressional delegation, urging it to work on master stewardship agreements with the USFS. Senator Martinez seconded the motion, and it passed unanimously.

Update from the UNM Land Grant Studies Program

Dr. Manuel Garcia y Griego, director, UNM Land Grant Studies Program, provided a brief history on the program and its work. Founded in 2008, the UNM Land Grant Studies Program's mission is to provide research and services for land grants, as well as serving as a repository for information. The program seeks to add value to existing materials such as analysis and maps.

Dr. Garcia y Griego highlighted some of the recent accomplishments of the students from the UNM Land Grant Studies Program, including mapping projects, developing new methods to locate survey points, aiding in resolving election disputes and developing methodology to identify land grant heirs without having to go back to the original petitioners. The UNM Land Grant Studies Program participants traveled to Washington, D.C., with the Land Grant Council to present their project on the mapping of traditional use boundaries. Currently, the program is working with the State Records Center and Archives to scan all of the material relating to land grants, making it more readily available to the public.

Dr. Garcia y Griego detailed the new project by the program to look into the legal history

and develop challenges to the *United States v. Sandoval* U.S. Supreme Court case, as the holding was based on a statutory interpretation and, thus, could be repealed by Congress. Dr. Garcia y Griego is developing roundtable discussions to examine the *Sandoval* decision. One question he is looking into is whether the *Tameling v. United States Freehold and Emigration Company* case makes *United States v. Sandoval* moot.

Members of the committee discussed the need and possibility of involving the UNM School of Law in land grant issues. The suggestion was also made to have the Hispanic Bar Association address the LGC during the next interim.

Possible Changes to Chapter 49 NMSA 1978 (Land Grant Statutes)

On behalf of the Land Grant Council, Mr. Sanchez and Mr. Archuleta presented numerous suggested changes to Chapter 49 NMSA 1978 for consideration as legislation to endorse in the upcoming session. They provided an explanation of each proposed change, noting that the suggestions came out of workshops and are not necessarily endorsed by the council (please see the handout detailing the proposed changes). Members of the committee and the presenters debated and discussed the proposals, voicing support and objections and suggesting modifications. The following are the proposed changes:

1. Section 49-1-1.1 NMSA 1978: amend the definition of "heir"; add a definition for "common land";
2. Section 49-1-3 (J) NMSA 1978: amend comprehensive plan requirements;
3. Section 49-1-4 NMSA 1978: amend language to exclude the reference to precinct and replace it with a reference to voting districts;
4. Section 49-1-5 NMSA 1978: add voting districts and procedures for cancellation of an election and for vote by acclamation;
5. Section 49-1-8 (A) and (C) NMSA 1978: amend language requiring deposit of land grant-merced funds in banks;
6. Section 49-1-9 NMSA 1978: allow for special meetings to be called by members of the board of trustees;
7. Section 49-1-12 (B) NMSA 1978: require an annual report to be filed with the Land Grant Council as part of the land grant registry; and
8. Section 49-1-14 (C) NMSA 1978: amend the written-check and voucher-use requirement.

In addition to the proposed changes to Chapter 49 NMSA 1978, the Land Grant Council also suggests amending Section 10-9-21 NMSA 1978 to clarify that land grants-mercedes boards of trustees are exempt from this provisions of the Personnel Act.

A member of the committee requested staff to research the Personnel Act and provide clarification on the definition of "partisan" in reference to the act. It was noted that all of the proposed changes would be drafted individually and presented for consideration for endorsement at the final LGC meeting in November. It was further requested that the Land Grant Council work with LCS staff to prioritize the changes by order of urgency and feasibility in a 30-day session.

Dispute over Encroachment and Destruction of the Morada at Merced de la Comunidad de El Carmel

Jim Coryat, vice president, El Carmel Land Grant, addressed the committee regarding the dispute over the destruction of property in El Carmel. Mr. Coryat provided some history of the land grant and the origins of the conflict. In 2000, the land grant was involved in several legal battles resulting in the loss of an easement that went through the local cemetery. In 2007, a bulldozer attempted to make a road through the cemetery. The two parties were ordered by a judge to resolve the issue by mediation. During the final stage of negotiations, Mr. Coryat alleged, the individual involved in the issue proceeded to bulldoze a road, resulting in the destruction of the morada. The morada was on the private property that was formerly in the land grant-merced, but it was lost in an adverse possession suit and contained the remains of two hermanos.

Mr. Coryat voiced a need to have attorneys educated on land grant issues. Even though El Carmel won the injunction, the district attorney might not pursue the issue because the morada was on private property. The Merced del la Comunidad de El Carmel is considered a subgrant and therefore does not have the same legal protections as other land grants. Mr. Coryat requested that legislation be drafted to address this issue as well as to create a strong protection for unmarked graves and protection for other religious sites.

Members of the committee asked questions about the case and what the land grant is seeking. Mr. Coryat responded that El Carmel just wants the protection of its cemetery and the monetary amount to have the 1,200 feet of land that was bulldozed restored.

Motion 2

Representative Rodella made a motion for a letter to be sent to the chief of the New Mexico State Police, requesting him to follow through on the investigation of the El Carmel case and to report back to the district attorney. A copy of that report was also requested to be given to the LGC. Representative Gallegos seconded the motion, and it passed without objection.

Public Comment

Lisa Quintana, member, San Miguel del Bado Land Grant, addressed the committee regarding the schoolhouse in San Miguel. According to Ms. Quintana, the schoolhouse was put up for sale in the paper for \$39,000. Ben Flores, member, San Miguel del Bado Land Grant, also spoke on the issue, provided some historic background and requested the LGC to help return the schoolhouse to the land grant.

Motion 3

A motion was made by Representative Garcia to draft a letter to the secretary of cultural affairs inquiring about the status of the Los Pueblos community center, highlighting the LGC's concern regarding the new statute on first right of refusal. Copies of the letter are to be sent to the General Services Department and the attorney general. Representative Rodella seconded the motion, and it passed unanimously.

Andres Valdez, Vecinos United, provided the LGC with an update on a letter sent to President Barack Obama in June 2009, requesting the USFS to return land grant lands. Mr. Valdez added that Vecinos United has received correspondence from the Office of Public Engagement, but it has been unable to schedule a meeting. Vecinos United is requesting a memorial on the issue, based on the one introduced by Senator Linda M. Lopez in the 2013 legislative session, as well as a letter requesting President Obama to respond to Vecinos United. After discussion by the committee, it was suggested that Mr. Valdez work with the Land Grant Consejo and the Land Grant Council.

Recess

The committee recessed at 5:21 p.m.

Friday, October 25

Tour of the Tecolote Land Grant

The committee reconvened at 9:30 a.m. for a tour of the Tecolote Land Grant. The tour included visits to several of the mission churches and cemeteries in the land grant, as well as the excavation site of the Anasazi pueblo.

Adjournment

There being no further business before the committee, the fifth meeting of the LGC adjourned at 12:20 p.m.